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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 RACHAL S. SANDERS,

10 Plaintiff,

11 vs.

12 NEVADA DEPARTMENT OF
13 CORRECTIONS,

14 Defendant.

Case No. 2:13-cv-01336-APG-PAL

ORDER

15 Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, has
16 submitted an application to proceed *in forma pauperis* (Dkt. #1) and a civil rights complaint
17 pursuant to 42 U.S.C. § 1983. The court will defer ruling upon the application. The court has
18 reviewed the complaint, and plaintiff will need to file an amended complaint.

19 When a “prisoner seeks redress from a governmental entity or officer or employee of a
20 governmental entity,” the court must “identify cognizable claims or dismiss the complaint, or any
21 portion of the complaint, if the complaint (1) is frivolous, malicious, or fails to state a claim upon
22 which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from
23 such relief.” 28 U.S.C. § 1915A(b). Rule 12(b)(6) of the Federal Rules of Civil Procedure provides
24 for dismissal of a complaint for failure to state a claim upon which relief can be granted.
25 Allegations of a pro se complainant are held to less stringent standards than formal pleadings
26 drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam).
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1 more than an unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that
 2 offers “labels and conclusions” or “a formulaic recitation of the elements of a cause of action
 3 will not do.” Nor does a complaint suffice if it tenders “naked assertion[s]” devoid of
 4 “further factual enhancement.” . . .

5 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim to
 6 relief that is plausible on its face.” A claim has facial plausibility when the plaintiff pleads
 7 factual content that allows the court to draw the reasonable inference that the defendant is
 8 liable for the misconduct alleged. The plausibility standard is not akin to a “probability
 9 requirement,” but it asks for more than a sheer possibility that a defendant has acted
 10 unlawfully. Where a complaint pleads facts that are “merely consistent with” a defendant’s
 11 liability, it “stops short of the line between possibility and plausibility of ‘entitlement to
 12 relief.’”

13 *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (citations omitted).

14 Plaintiff alleges that she provided information about a sexual relationship between another
 15 inmate and a correctional officer at her prison. She further alleges that the information should have
 16 remained confidential, but instead the information and her name were printed in the local
 17 newspaper. She then was placed into solitary confinement. After her release from solitary
 18 confinement, she has been subject to verbal and physical abuse.

19 The only defendant, the Nevada Department of Corrections, cannot be sued in a § 1983
 20 action. Section 1983 states, in relevant part:

21 Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any
 22 State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen
 23 of the United States or other person within the jurisdiction thereof to the deprivation of any
 24 rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the
 25 party injured in an action at law, suit in equity, or other proper proceeding for redress
 26 (emphasis added)

27 The State of Nevada is not a person for the purposes of § 1983, and thus cannot be a defendant.

28 *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 71 (1989). The Nevada Department of
 Corrections is an arm of the state. It is not a person for the purposes of § 1983, and thus cannot be a
 defendant. *Id.* at 70.

The court will give plaintiff the opportunity to amend the complaint to allege claims against
 people who can be defendants. These will be people who have had personal knowledge or
 involvement in the events that she has alleged. Plaintiff should note that she cannot sue supervisors
 simply because they are supervisors. “A supervisor may be liable if there exists either (1) his or her
 personal involvement in the constitutional deprivation, or (2) a sufficient causal connection between

1 simply because they are supervisors. "A supervisor may be liable if there exists either (1) his or her
2 personal involvement in the constitutional deprivation, or (2) a sufficient causal connection between
3 the supervisor's wrongful conduct and the constitutional violation." *Hansen v. Black*, 885 F.2d 642,
4 646 (9th Cir. 1989). If plaintiff does name supervisors, she will need to allege facts that satisfy the
5 requirements of *Hansen*.

6 **IT IS THEREFORE ORDERED** that a decision on the application to proceed *in forma*
7 *pauperis* (Dkt. #1) is **DEFERRED**.

8 **IT IS FURTHER ORDERED** that the clerk of the court shall file the complaint.

9 **IT IS FURTHER ORDERED** that the complaint is **DISMISSED** for failure to state a
10 claim upon which relief can be granted, with leave to amend. The clerk shall send to plaintiff a civil
11 rights complaint form with instructions. Plaintiff will have thirty (30) days from the date that this
12 order is entered to submit her amended complaint, if she believes that she can correct the noted
13 deficiencies. Failure to comply with this order will result in the dismissal of this action.

14 **IT IS FURTHER ORDERED** that plaintiff shall clearly title the amended complaint as
15 such by placing the word "AMENDED" immediately above "Civil Rights Complaint Pursuant to 42
16 U.S.C. § 1983" on page 1 in the caption, and plaintiff shall place the case number, 2:13-cv-01336-
17 APG-PAL, above the word "AMENDED."

18 DATED: December 19, 2013.

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22 ANDREW P. GORDON
23 United States District Judge
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